



THE CITY OF NEW YORK
LAW DEPARTMENT

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September 4, 2008

BY FAX: 212-805-6382
Honorable Victor Marrero
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St., Room 2210
New York, NY 10007

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 9-5-08

Re: Alfredo McCrae, v. City of New York, et al, 08 CV 6531 (VM)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of this action on behalf of defendant City of New York. I am writing in response to the Court's order of September 3, 2008, in which the Court notes that defendants have failed to timely answer the complaint. I write with the consent of plaintiff's counsel Jon Norinsberg, Esq., to request an sixty-day enlargement of time from the original due date of the complaint, August 18, 2008, until October 17, 2008, within which this office may answer or otherwise respond to the complaint. This is the City's first request for an enlargement of time in this action.

Defendants contacted plaintiff's counsel in early August, 2008, to request plaintiff's consent to a sixty-day extension of time to answer. Plaintiff consented. Although defendant City drafted a letter of enlargement, apparently the letter was never communicated to the Court. I apologize for this oversight, to both the Court and plaintiff's counsel. Defendant spoke with plaintiff's counsel today and explained the error; plaintiff's counsel graciously consented to the same extension of time as previously agreed¹.

The plaintiffs allege, *inter alia*, that several police officers falsely arrested and prosecuted plaintiff for criminal sale of a controlled substance, denied him a fair trial, and maliciously

¹ The Court's order of September 3, 2008, is an order to show cause requiring a response from plaintiff concerning defendant's failure to answer. Plaintiff has indicated that he does not intend to file a default motion and has consented to the extension requested herein.

abused the process of arrest. In addition to the City of New York, plaintiff also names P.O. Allen Cortney, P.O. Leander Feaggins, P.O. Neil Lawson, and P.O. Marshall Monell. A review of the docket indicates that the City and all officers have been served.

Before this office can adequately respond to the complaint, we will need to conduct an investigation into the facts of the case. Defendants requested and received a \$160.50 release from plaintiff and have requested the underlying arrest, District Attorney, and criminal court files. Without the underlying records, the defendant cannot properly assess this case or respond to the complaint. Accordingly, the enlargement of time will afford us the opportunity to investigate the matter and to secure the relevant documents.

Additionally, pursuant to Section 50-k of the New York General Municipal Law, this office must determine, based on a review of the case, whether we may represent the individually named defendants. The officers must then decide whether they wish to be represented by this office. If so, we must obtain their written authorization. Only after this procedure has been followed can we determine how to proceed in this case. While this office does not currently represent the individually-named officers, I request that those officers time to answer also be extended in order that representational matters can be resolved.

In view of the foregoing, the defendant respectfully requests that the Court grant the enlargement extending its time to answer or otherwise respond to the complaint until October 17, 2008. Again, I apologize for my oversight in not filing this motion prior to the expiration of defendant City's time to answer.

Thank you for your consideration in this regard.


Respectfully submitted,



Brian G. Maxey (BM 0451)

BY FAX: 212-406-6890

Jon Norinsberg, Esq.
Attorney for Plaintiff

Request GRANTED. The time for defendant(s) to answer or otherwise move with respect to the complaint in this action is extended to <u>10-17-08</u> .	
SO ORDERED.	
<u>9-4-08</u> DATE	 VICTOR MARRERO, U.S.D.J.